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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO.       |
|--|-------------|----------------------|--------------------------------|------------------------|
| 10/047,984   | 01/17/2002  | Gernot von Haas      | 017399-0202                    | 3228                   |
| 22428  | 7590        | 07/12/2007           |                                |                        |
| FOLEY AND LARDNER LLP<br>SUITE 500<br>3000 K STREET NW<br>WASHINGTON, DC 20007 |             |                      | EXAMINER<br>HUSON, MONICA ANNE |                        |
|  |             |                      | ART UNIT<br>1732               | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>07/12/2007        | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|  |                               |                                  |  |
|--|-------------------------------|----------------------------------|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | Application No.<br>10/047,984 | Applicant(s)<br>VON HAAS, GERNOT |  |
|  | Examiner<br>Monica A. Huson   | Art Unit<br>1732                 |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because: although Applicant does not believe that Bielfeldt, Luke, and Reiniger show the instant invention, the examiner maintains her rejections.

(I)

(A) Applicant points out several differences between Luke and Bielfeldt. It seems as if Applicant is arguing that since Luke and Bielfeldt are not teaching the same things, they cannot be properly combined. This is not persuasive because the Examiner did not contend that Luke and Bielfeldt contain the same disclosures; combination would not be necessary if Bielfeldt contained the subject matter of Luke. Clearly, between two patents, there will be differences between the disclosures, even if the two patents can be properly combined. Luke was only cited to show the use of a specific metal mesh belt for use as Bielfeldt's metal mesh belt used in continuous article production. It is maintained that, even in view of the differences between the disclosures of Luke and Bielfeldt, Luke's belt would be properly combinable with Bielfeldt's disclosure to suggest the instant invention.

(B)

1. Applicant contends that Luke does not show molding cellulose articles: "The Luke rods that the Office Action relies on are not natural cellulose, but rather cellulose acetate, which Hawley's refers to as a chemical modification of cellulose." This is not persuasive Luke is not necessarily relied on to show molding a cellulose article. This aspect of Luke's invention is only mentioned to show one reason why Bielfeldt and Luke would be properly combinable. As to whether or not Luke shows molding cellulose articles, it is maintained that, although not "natural cellulose", cellulose acetate IS a cellulose material, just a modification of naturally-occurring cellulose.

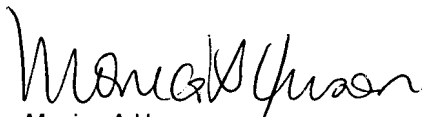
2. Applicant contends that Luke is non-analogous art relative to Bielfeldt because Luke has a different classification and because never before has Luke been mentioned in an application regarding methods for producing fiberboards. This is not persuasive because just because Luke has a different classification does not mean his disclosure cannot contain relevant teachings which are applicable to other technologies. Furthermore, forward and backward citations relative to Luke do not have preclude any combination of Luke's teachings with teachings from other technologies. Forward and backward citations relative to Luke do not affect the ultimate combinability of Luke with other prior art.

3. Applicant contends that Luke's copper mesh belt lacks the necessary hardness to be used in an apparatus such as Bielfeldt's. This is not persuasive because there is no evidence to support this assertion; attorney's arguments cannot take the place of evidence in the record (MPEP 2145). Applicant contends that Luke teaches away from Bielfeldt because Bielfeldt requires the metal mesh belt to alter the particle board's surface while Luke does not. This is not persuasive because Luke was not cited to show surface alteration or not. Luke was only cited to show a specific metal mesh for use as that of Bielfeldt's metal mesh belt. It is interpreted that whether or not surface alteration occurs is not solely dependent upon the particular metal of which the belt is made, but rather the surrounding process steps and conditions. Therefore, it is maintained that Luke's copper mesh belt would be properly combinable with the teachings of Bielfeldt in order to suggest the instant invention.

(C) Applicant contends that there would not be a 40C temperature difference between the 100C metal mesh belt and the non-heated steel belt, going on to say that at Column 3, lines 36-40 it shows heated steel belts. This is not persuasive because there is no indication at the citation provided by applicant to support that the steel belts are heated. It is maintained that the steel belts are not heated and a temperature difference would implicitly occur between the heated mesh belt and the ambient steel belt.

((II)-(IV)

Applicant contends that the respective dependent claims are not taught for the same reasons as presented in section (I). Those reasons are not persuasive as noted above. It is noted that there is a typographical error with respect to Beck instead of Luke. Clearly, as Luke is used in the rejection of the independent claims, all other rejections stem from Bielfeldt and Luke, not Bielfeldt and Beck.



Monica A Huson  
July 9, 2007